

Senate Bill 27

By: Senators Johnson of the 1st and Chapman of the 3rd

**AS PASSED SENATE**

**A BILL TO BE ENTITLED  
AN ACT**

To amend Article 3 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to abandoned vessels, so as to change certain provisions relating to removal and storage of vessels and procedures therefor; to change certain provisions relating to authority of peace officers to cause removal of unattended vessels and duties relative thereto; to provide for certain administrative actions against owners of vessels that have been removed and not redeemed; to provide for certain administrative actions against owners of vessels that have been left unattended in public waters or on public property; to provide an effective date; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

Article 3 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to abandoned vessels, is amended by revising Code Section 52-7-71, relating to removal and storage of vessels and procedures therefor, as follows:

"52-7-71.

(a) Any person who removes a vessel from public property or public water at the request of a law enforcement officer or stores such vessel shall, if the owner of the vessel is unknown, seek the identity of and address of the last known registered owner of such vessel from the law enforcement officer requesting removal of such vessel or such officer's agency within 72 hours of removal.

(b) Any person who removes a vessel from private property or private waters at the request of the property owner or stores such vessel shall, if the owner of the vessel is unknown, notify in writing a local law enforcement agency of the location of the vessel, the vessel ~~registration~~ certificate of number, and the ~~license~~ hull identification number, model, year, and make of the vessel, if known or if readily ascertainable, within 72 hours of the removal of such vessel and shall seek from the local law enforcement agency the identity and

1 address of the last known registered owner of such vessel and any information indicating  
2 that such vessel is a stolen vessel.

3 (c) If any vessel removed under conditions set forth in subsection (a) or (b) of this Code  
4 section is determined to be a stolen vessel, the local law enforcement officer or agency  
5 shall notify the Georgia Crime Information Center and the owner, if known, of the location  
6 of such vessel within 72 hours after receiving notice that such vessel is a stolen vessel.

7 (d) If any vessel removed under conditions set forth in subsection (a) or (b) of this Code  
8 section is determined not to be a stolen vessel or is not a vessel being repaired by a repair  
9 facility or is not being stored by an insurance company providing insurance to cover  
10 damages to the vessel, the person removing or storing such vessel shall, within seven  
11 calendar days of the day such vessel was removed, notify the owner, if known, by certified  
12 or registered mail or statutory overnight delivery of the location of such vessel, the fees  
13 connected with removal and storage of such vessel, and the fact that such vessel will be  
14 deemed abandoned under this article unless the owner redeems such vessel within 30 days  
15 of the ~~day~~ date such vessel was removed.

16 (e) If the person identified as the owner fails to redeem such vessel as described in  
17 subsection (d) of this Code section, or if a vessel being repaired by a repair facility or being  
18 stored by an insurance company providing insurance to cover damages to the vessel  
19 becomes abandoned, the person removing or storing such vessel shall, within seven  
20 calendar days of the day such vessel became an abandoned vessel, give notice in writing,  
21 by sworn statement, to the Department of Natural Resources and the Georgia Bureau of  
22 Investigation, stating the vessel ~~registration~~ certificate of number, the ~~license~~ hull  
23 identification number, the fact that such vessel is an abandoned vessel, the model, year, and  
24 make of the vessel, if known or if readily ascertainable, the date the vessel became an  
25 abandoned vessel, the date the vessel was removed, and the present location of such vessel  
26 and requesting the name and address of all owners, lessors, lessees, security interest  
27 holders, and lienholders of such vessel. If a person removing or storing the vessel has  
28 knowledge of facts which reasonably indicate that the vessel is registered or titled in a  
29 certain other state, such person shall check the vessel records of that other state in the  
30 attempt to ascertain the identity of the owner of the vessel.

31 (e.1)(1)(A) Upon notice to the Department of Natural Resources as described in  
32 subsection (e) of this Code section, then the commissioner may revoke, suspend, deny,  
33 or refuse to renew any vessel certificate of number or commercial fishing boat license  
34 required by this title or Title 27 which is held by or has been applied for by the person,  
35 until all fees connected with removal and storage of the vessel have been paid and any  
36 lien acquired under Code Section 52-7-73 for such fees has been satisfied. The person  
37 shall be notified of the proposed order for revocation, suspension, denial, or nonrenewal

1 personally or by a letter sent by certified mail or statutory overnight delivery to the  
2 name and address indicated on the application for the certificate of number or license,  
3 or both. The proposed order for revocation, suspension, denial, or nonrenewal shall  
4 become final 30 days after issuance if not appealed as provided in this paragraph.

5 (B) Any person whose vessel certificate of number or commercial fishing boat license  
6 is proposed for revocation, suspension, denial, or nonrenewal under this paragraph shall  
7 have the right to enter an appeal in the superior court of the county of his or her  
8 residence or in the Superior Court of Fulton County. Such appeal shall name the  
9 commissioner as defendant and must be filed within 30 days from the date the notice  
10 of the proposed order was sent. The person filing the appeal shall neither be required  
11 to post any bond nor to pay the costs in advance. If the person so desires, the appeal  
12 may be heard by the judge at term or in chambers or by a jury at the first term. The  
13 hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any  
14 orders or acts of the department.

15 (2)(A) Upon notice to the Department of Natural Resources as described in  
16 subsection (e) of this Code section and delivery of a copy of such notice to the state  
17 revenue commissioner, then the state revenue commissioner may revoke, suspend,  
18 deny, or refuse to renew any motor vehicle registration required by Title 40 which is  
19 held by or has been applied for by the person, until all fees connected with removal and  
20 storage of the vessel have been paid and any lien acquired under Code Section 52-7-73  
21 for such fees has been satisfied. The person shall be notified of the proposed order for  
22 revocation, suspension, denial, or nonrenewal personally or by a letter sent by certified  
23 mail or statutory overnight delivery to the name and address indicated on the  
24 application for the registration. The proposed order for revocation, suspension, denial,  
25 or nonrenewal shall become final 30 days after issuance if not appealed as provided in  
26 this paragraph.

27 (B) Any person whose motor vehicle registration is proposed for revocation,  
28 suspension, denial, or nonrenewal under this paragraph shall have the right to enter an  
29 appeal in the superior court of the county of his or her residence or in the Superior  
30 Court of Fulton County. Such appeal shall name the state revenue commissioner as  
31 defendant and must be filed within 30 days from the date the notice of the proposed  
32 order was sent. The person filing the appeal shall neither be required to post any bond  
33 nor to pay the costs in advance. If the person so desires, the appeal may be heard by  
34 the judge at term or in chambers or by a jury at the first term. The hearing on the  
35 appeal shall be de novo, but no appeal shall act as a supersedeas of any orders or acts  
36 of the department.

(f) Upon ascertaining the owner of such vessel, the person removing or storing such vessel shall, within five calendar days, by certified or registered mail or statutory overnight delivery, notify the owner, lessors, lessees, security interest holders, and lienholders of the vessel of the location of such vessel and of the fact that such vessel is deemed abandoned and shall be disposed of if not redeemed.

(g) If the identity of the owner of such vessel cannot be ascertained, the person removing or storing such vessel shall place an advertisement in a newspaper of general circulation in the county where such vessel was obtained or, if there is no newspaper in such county, shall post such advertisement at the county courthouse in such place where other public notices are posted. Such advertisement shall run in the newspaper once a week for two consecutive weeks or shall remain posted at the courthouse for two consecutive weeks. The advertisement shall contain a complete description of the vessel, its ~~license number and manufacturer's vessel identification numbers~~ certificate of number and hull identification number, the location from where such vessel was initially removed, the present location of such vessel, and the fact that such vessel is deemed abandoned and shall be disposed of if not redeemed.

(h) Information forwarded to the Georgia Bureau of Investigation as required by this Code section shall be placed by the bureau on the National Crime Information Center Network.

(i) Any person storing a vessel under the provisions of this Code section shall notify the Department of Natural Resources and the Georgia Bureau of Investigation if the vessel is recovered, is claimed by the owner, is determined to be stolen, or is for any reason no longer an abandoned vessel. Such notice shall be provided within seven calendar days of such event.

(j) If vessel information on the abandoned vessel is not in the files of the Department of Natural Resources, the department may require such other information or confirmation as it determines is necessary or appropriate to determine the identity of the vessel.

(k) Any person who does not provide the notice and information required by this Code section shall not be entitled to any storage fees.

(l) Any person who knowingly provides false or misleading information when providing any notice or information as required by this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor."

## SECTION 2.

Said article is further amended by revising Code Section 52-7-72, relating to authority of peace officers to cause removal of unattended vessels and duties relative thereto, as follows:

1 "52-7-72.

2 (a) Any peace officer who finds a vessel which has been left unattended in or upon any  
3 public waters or other public property for a period of at least five days ~~shall be authorized~~  
4 ~~to cause such vessel to be removed to a garage or other place of safety,~~ if such peace officer  
5 reasonably believes that the person who left such vessel unattended does not intend to  
6 return and remove such vessel, shall notify the Department of Natural Resources of such  
7 finding in accordance with subsection (d) of this Code section and may cause such vessel  
8 to be removed to a garage or other place of safety.

9 (b) Any peace officer who finds a vessel which has been left unattended in or upon any  
10 public waters or other public property ~~shall be authorized immediately to cause such vessel~~  
11 ~~to be removed to a garage or other place of safety,~~ when such vessel poses a threat to public  
12 health or safety, shall notify the Department of Natural Resources of such finding in  
13 accordance with subsection (d) of this Code section and may immediately cause such  
14 vessel to be removed to a garage or other place of safety.

15 (c) Any peace officer who, under the provisions of this Code section, causes any vessel to  
16 be removed to a garage or other place of safety shall be liable for gross negligence only.

17 (d)(1) Any peace officer ~~or the law enforcement agency which causes a vessel to be~~  
18 ~~removed to a garage or other place of safety or which is notified of the removal of a~~  
19 ~~vessel from private waters or private property~~ who finds a vessel under such conditions  
20 as described in subsection (a) or (b) of this Code section shall within 72 hours from the  
21 time of ~~removal or notice and if the owner is unknown~~ such finding:

22 (A) Notify the Department of Natural Resources and the Georgia Crime Information  
23 Center of the description of the vessel, whether the vessel has been removed or not,  
24 and, if removed, the location to which such vessel has been removed; and

25 (B) If available on the Georgia Crime Information Center Network, determine the  
26 name and address of the last known registered owner of such vessel.

27 If vessel information is not in the files of the Department of Natural Resources, the  
28 department may require such other information or confirmation as it determines is  
29 necessary or appropriate to determine the identity of the vessel.

30 (2) If any such vessel is determined to be a stolen vessel, the local law enforcement  
31 officer or agency shall notify the Georgia Crime Information Center and the owner, if  
32 known, of the location of such vessel within 72 hours after receiving notice that such  
33 vessel is a stolen vessel.

34 ~~(2)(3)~~ (3) If the vessel is removed and the name and address of the last known registered  
35 owner of the vessel is obtained from the Georgia Crime Information Center, the peace  
36 officer who causes the vessel to be removed shall, within three calendar days of removal,  
37 make available to the person removing such vessel the name and address of the last

1 known registered owner of such vessel. If such information is not available, the peace  
2 officer shall, within three calendar days of removal, notify the person removing or storing  
3 such vessel of such fact."

### 4 SECTION 3.

5 Said article is further amended by adding a new Code section to read as follows:

6 "52-7-72.1.

7 (a)(1) If any vessel for which the Department of Natural Resources and the Georgia  
8 Crime Information Center have received notice pursuant to subsection (d) of Code  
9 Section 52-7-72 has not been removed and is determined not to be a stolen vessel, the  
10 commissioner may proceed to take action against the owner as provided by this Code  
11 section.

12 (2) If any vessel for which the Department of Natural Resources and the Georgia Crime  
13 Information Center have received notice pursuant to subsection (d) of Code Section  
14 52-7-72 has been removed, the provisions of this Code section shall not apply and the  
15 provisions of Code Section 52-7-71 shall apply instead.

16 (b)(1)(A) Upon notice to the Department of Natural Resources as described in  
17 subsection (d) of Code Section 52-7-72, then the commissioner may revoke, suspend,  
18 deny, or refuse to renew any vessel certificate of number or commercial fishing boat  
19 license required by this title or Title 27 which is held by or has been applied for by a  
20 person who owns the vessel, until the owner restores and resumes operation of the  
21 vessel or removes it from public waters or public property. The person shall be notified  
22 of the proposed order for revocation, suspension, denial, or nonrenewal personally or  
23 by a letter sent by certified mail or statutory overnight delivery to the name and address  
24 indicated on the application for the certificate of number or license, or both. The  
25 proposed order for revocation, suspension, denial, or nonrenewal shall become final 30  
26 days after issuance if not appealed as provided in this paragraph.

27 (B) Any person whose vessel certificate of number or commercial fishing boat license  
28 is proposed for revocation, suspension, denial, or nonrenewal under this paragraph shall  
29 have the right to enter an appeal in the superior court of the county of his or her  
30 residence or in the Superior Court of Fulton County. Such appeal shall name the  
31 commissioner as defendant and must be filed within 30 days from the date the notice  
32 of the proposed order was sent. The person filing the appeal shall neither be required  
33 to post any bond nor to pay the costs in advance. If the person so desires, the appeal  
34 may be heard by the judge at term or in chambers or by a jury at the first term. The  
35 hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any  
36 orders or acts of the department.

(2)(A) Upon notice to the Department of Natural Resources as described in subsection (d) of Code Section 52-7-72 and delivery of a copy of such notice to the state revenue commissioner, then the state revenue commissioner may revoke, suspend, deny, or refuse to renew any motor vehicle registration required by Title 40 which is held by or has been applied for by a person who owns the vessel, until the owner restores and resumes operation of the vessel or removes it from public waters or public property. The person shall be notified of the proposed order for revocation, suspension, denial, or nonrenewal personally or by a letter sent by certified mail or statutory overnight delivery to the name and address indicated on the application for the registration. The proposed order for revocation, suspension, denial, or nonrenewal shall become final 30 days after issuance if not appealed as provided in this paragraph.

(B) Any person whose motor vehicle registration is proposed for revocation, suspension, denial, or nonrenewal under this paragraph shall have the right to enter an appeal in the superior court of the county of his or her residence or in the Superior Court of Fulton County. Such appeal shall name the state revenue commissioner as defendant and must be filed within 30 days from the date the notice of the proposed order was sent. The person filing the appeal shall neither be required to post any bond nor to pay the costs in advance. If the person so desires, the appeal may be heard by the judge at term or in chambers or by a jury at the first term. The hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any orders or acts of the department."

#### **SECTION 4.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

#### **SECTION 5.**

All laws and parts of laws in conflict with this Act are repealed.